IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR
&
THE HONOURABLE MR. JUSTICE K.M.JOSEPH

THURSDAY, THE 9TH NOVEMBER 2006 / 18TH KARTHIKA 1928

ST.Rev..No. 211 of 2005()

TA.276/2004 of S.T.A.TRIBUNAL,ADDL.BENCH,KZD.
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REVISION PETITIONER/APPELLANT

M/S.PALLITHARA JEWELLERS,
MARINA SHOPPING CENTRE, NATIONAL HIGHWAY,
TALIPARAMBA, KANNUR, REPRESENTED BY ITS
MANAGING PARTNER SHRI.P.V.LUKOSE.

BY ADV. SRI.DALE P.KURIEN

RESPONDENT/RESPONDENT/RESPONDENT:

STATE OF KERALA,
REPRESENTED BY CHIEF SECRETARY TO GOVERNMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

BY GOVT. PLEADER SRI. GEORGEKUTTY MATHEW.

THIS SALES TAX REVISION HAVING BEEN FINALLY HEARD ON 09/11/2006, ALONG WITHS.T.RV. 212/2005, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR & K.M.JOSEPH, JJ.

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S.T.REV. Nos.211 & 212 OF 2005

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Dated this the 9th day of November, 2006.

JUDGMENT

Ramachandran Nair, J.

Heard counsel for the petitioner and the Government Pleader. Questions of law raised in the connected Sales Tax Revisions arising from the common order of the Tribunal for the very same year pertain to rejection of books of account and addition to the turnover sustained by the Tribunal. Petitioner is a jeweller in gold and silver. During the relevant year an inspection was conducted, wherein unaccounted transactions were detected. Petitioner admitted the offence and paid compounding fee of Rs.7000/-. In the circumstances, the Tribunal rightly sustained rejection of books of account. We find no ground to interfere with this question.

2. So far as the estimation of turnover is concerned, the Tribunal sustained the addition at two times of the first sales turnover of gold ornaments conceded by the petitioner and 80% of the addition so sustained for levy of tax under Section 5A of the Act. During the previous year petitioner had declared about Rs.55 Lakhs turnover,

whereas in this year declared turnover is around Rs.29 Lakhs. Petitioner had given an explanation that big dealers have started business in jewellery during this year in the same area. Moreover, total stock variation noticed during inspection accounted for only 231.350gms. of gold.

3. Having regard to these facts, we feel the addition at two times of the first sales turnover is on the higher side. We therefore modify the Tribunal's order by reducing the addition to one and a half times of the first sales turnover of gold ornaments conceded by the petitioner. Addition under Section 5A of the Act on old gold ornaments will stand sustained at 80% of the modified turnover.

Sales Tax Revisions are disposed of as above.

(C.N.RAMACHANDRAN NAIR, JUDGE)

(K.M. JOSEPH, JUDGE)

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K.S.RADHAKRISHNAN & K.M.JOSEPH, JJ.

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W.A. No. OF 200

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JUDGMENT

Dated this the day of February, 200.